D.B. CIVIL SPECIAL APPEAL (W) NO.809/1998.
(State of Raj. & Ors. vs. Mehtab Singh Punia)

Date :: 20.03.2006

HON'BLE MR.JUSTICE RAJESH BALIA
HON'BLE MR.JUSTICE RAJENDRA PRASAD VYAS

Mr.L.R. Upadhyay, for the appellant-State.
None present for the respondent.

Heard learned counsel for the appellant. None has appeared for respondent inspite of service.

The admitted and undisputed position which emerges from the record placed before us that the respondent-petitioner was appointed in June/July, 1983 as Work-charge employee. According to the petitioner-respondent right from beginning he was required to discharge the duty of driver as he was holding driving licence. He has placed as many as 10 documents issued from time to time by the superior authorities describing him as a driver and assigning him duties of driver, apart from muster role details from 1983.

The muster role produced alongwith rejoinder further goes to show that since his appointment in 1983 the petitioner-respondent discharging the duties of driver.

However, though the Work-charge Employees Service Rules, 1964 envisages confirmation of a semi permanent status on completion of two years continuous service satisfactorily, the same having not been concurred the petitioner was not forced to file a writ petition before this Court, claiming that his representation for confirming semi permanent status was not resolved.

The petitioner was conferred with the status of semi permanent by order dated 10.07.1992 on all those work-charge employees who had competed two years service as on 31st March, 1990. Vide said order the respondent-petitioner was declared semi permanent.

However, he was given semi permanent status as a helper. It is apparent from the record that while he was declared semi permanent, he was working as a driver for more than 7 years.

In these circumstances, when petitioner was semi permanent with the status of helper, he filed the present writ petition out of which this appeal arises, claiming that he was entitled to be made semi permanent as a driver, as he was holding the post on the date he was declared semi

permanent and he was continuously discharging the duties of driver. He also pointed out that a person appointed after him in the like manner as a daily wage, has been made semi permanent as a driver, whereas, the petitioner has not been given the same status.

The learned Single Judge having considered the contentions of the petitioner and facts clearly emerging from record allowed the writ petition and directed the respondents to treat the petitioner on semi permanent on the post of driver.

The only contention that has been raised in the appeal before us is that the petitioner has been appointed as Beldar on work-charge establishment would be initially conferred semi permanent status. However, nothing has been placed on record contrary to what has been placed on record by the petitioner to suggest that the petitioner was appointed as a Beldar as was ever required to discharge functions of helper or Beldar. In these circumstances, on undisputed facts and the material placed on record, the direction issued by the learned Single Judge cannot be faulted with.

The appeal therefore fails and is hereby dismissed. No order as to costs.

[RAJENDRA PRASAD VYAS],J. **[RAJESH BALIA],J.**

Ashwini/-